

April 15, 2016

**FOR IMMEDIATE RELEASE**

## Summary of April 7-8, 2016, Board Meeting

The following is a summary of the April 7-8, 2016, meeting of the Iowa Board of Medicine.

**Cases Reviewed:** The Board reviewed 130 cases.

**New Investigative Cases:** The Board reviewed 62 new investigative cases.

**Findings of Fact, Conclusions of Law, Decision and Order:** If the Board files formal disciplinary charges against a licensee and holds a contested case hearing, the Board issues a Findings of Fact, Conclusions of Law, Decision and Order which describes the Board's factual findings, violations of the laws and rules governing the practice of medicine and sanctions.

The Board approved 1 Findings of Fact, Conclusions of Law, Decision and Order:

1. An Iowa-licensed physician who practices anatomic and clinical pathology in Marshalltown, Iowa, had a Findings of Fact, Conclusions of Law, Decision and Order issued by the Board on April 8, 2016. On July 10, 2015, the Board charged the physician with demonstrating professional incompetency and/or practice harmful or detrimental to the public in violation the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pathological services to at multiple patients in Marshalltown. The Board alleged that the physician ordered unnecessary pathology stains which were not indicated and misdiagnosed cancerous conditions for multiple patients. A hearing was held on January 21-22, 2016. Under the April 8, 2016, Findings of Fact, Conclusions of Law, Decision and Order, the Board concluded that the physician demonstrated professional incompetency and engaged in practice harmful or detrimental to the public when he misdiagnosed a well-differentiated squamous cell carcinoma in vulvar tissue as a keratoacanthoma in a single patient and when he failed to seek consultations in cases of suspected melanoma. The Board concluded that the physician's use of special stains does not demonstrate professional incompetency or practice harmful or detrimental to the public. The Board issued the physician a Citation and Warning for engaging in professional incompetence and practice harmful and detrimental to the public in his pathology practice. The Board ordered the physician to arrange for continuing audits of

5 percent of his cases by an outside pathology laboratory approved by the Board and the auditing entity shall submit a report of its audit findings to the Board on a quarterly basis. The Board also ordered the physician to obtain consultation with a Board-approved, board-certified Dermatopathologist prior to issuing any pathology report for any cases of suspected melanoma. Finally, the Board ordered the physician to submit a professional paper discussing the diagnostic criteria for well-differentiated squamous cell carcinoma and keratoacanthoma in vulvar tissue to the Board for approval.

**Statement of Charges:** Upon a determination by the Board that probable cause exists to take formal disciplinary action against a licensee, the Board may file a Statement of Charges which contains the allegations of the Board.

The Board approved 1 Statement of Charges.

1. An Iowa-licensed physician who practices internal medicine in Waterloo, Iowa, had formal disciplinary charges filed against him by the Board on April 8, 2016. The Board alleged that the physician violated the laws and rules governing the practice of medicine in Iowa when he failed to provide appropriate pain management to multiple patients in Waterloo between 2008 and 2014. The Board also alleged that the physician: failed to provide and/or document appropriate evaluation and treatment of a patient who was diagnosed with chronic myelomonocytic leukemia; failed to provide and/or document appropriate evaluation and treatment of a patient who presented with a history of a fever up to 104 degrees for five days; failed to provide and/or document appropriate evaluation and treatment of two patients with chronic alcoholism who required hospitalization or rehabilitation and received opioids, zolpidem and benzodiazepines; failed to perform and/or document appropriate evaluations, decisions for imaging studies; and follow-up arrangements for multiple patients with chronic health conditions and inappropriately included derogatory and unprofessional criticisms of other physicians in his clinical notes. A hearing is scheduled on June 16, 2016.

**Combined Statement of Charges and Settlement Agreement:** If the Board determines that probable cause exists for formal disciplinary action against a licensee, the Board and the licensee may enter into a combined Statement of Charges and Settlement Agreement to resolve the matter. The combined Statement of Charges and Settlement Agreement contains the Board's allegations and the disciplinary sanctions.

The Board approved 1 Combined Statements of Charges and Settlement Agreement.

1. An Iowa-licensed physician who formerly practiced clinical psychiatry in Cumming, Iowa, entered into a combined Statement of Charges and Settlement Agreement with the Board on April 8, 2016. The Board charged the physician with failing to maintain appropriate medical records for several patients between 2009 and 2015. The physician indicated that he semi-retired from the clinical practice of psychiatry in June 2009 and he permanently retired on October 1, 2015. Under the terms of the April 8, 2016, combined Statement of Charges and Settlement Agreement the physician voluntarily surrendered his Iowa medical license and agreed to pay a \$5,000 civil penalty.

**Settlement Agreement:** After the Board has filed formal disciplinary charges against a licensee, the Board and the licensee may enter into a Settlement Agreement to resolve the pending disciplinary charges. The Settlement Agreement contains the disciplinary sanctions.

The Board approved 1 Settlement Agreement.

1. An Iowa-licensed physician who practices obstetrics and gynecology in Clinton, Iowa, entered into a Settlement Agreement with the Board on April 8, 2016. On January 11, 2013, the Board charged the physician with violating the laws and rules governing the practice of medicine in Iowa. The Board alleged that the physician provided prenatal care to at least one patient in Clinton in 2011, without properly informing the patient that he did not have hospital delivery privileges, failed to make appropriate arrangements with other providers to deliver the baby and failed to timely transfer the prenatal records to the hospital where the baby was delivered. The Board also alleged that the physician failed to disclose the loss of his hospital privileges at Mercy Medical Center in Clinton, on February 2, 2011, on the application for renewal of his Iowa medical license dated December 1, 2011. Under the terms of the April 8, 2016, combined Statement of Charges and Settlement Agreement the Board issued the physician a Citation and Warning and ordered him to pay a \$2,500 civil penalty and establish appropriate prenatal care protocol to ensure that he provides proper notice to patients that he does not have hospital delivery privileges, establishes formal arrangements with other providers to deliver babies, and timely transfers prenatal records to the hospital where the babies are delivered.

**Dismissal Order:** The Board issues Dismissal Orders when the Board determines that it is unable to, or unnecessary to, proceed with pending disciplinary charges.

The Board approved 1 Dismissal Order.

1. An Iowa-licensed physician who formerly practiced pathology in Lexington, Kentucky, had formal disciplinary charges dismissed by the Iowa Board on April 8, 2016. On August 28, 2012, the physician voluntarily surrendered his Kentucky medical license due to a mental health condition. On October 25, 2013, the Iowa Board charged him with entering into a voluntary agreement to restrict the practice of medicine in another state in violation of the laws and rules governing the practice of medicine in Iowa. The physician's Iowa medical license has been inactive due to nonrenewal on April 1, 2011. Effective April 1, 2016, the physician relinquished his Iowa medical license because he failed renew or reinstate his Iowa medical license within five years after its expiration. Therefore, the physician no longer holds an Iowa medical license and the Board dismissed the pending disciplinary charges.

**Termination Order:** The Board issues Termination Orders when a physician successfully completes the requirements of a disciplinary order or the term of probation.

The Board approved 1 Termination Order.

1. An Iowa-licensed physician who practices obstetrics and gynecology in Washington, Iowa, had the terms of her probation terminated by the Board on April 8, 2016. On April 19, 2012, the physician entered into a combined Statement of Charges and Settlement Agreement with the Board. The Board charged the physician with failing to conform to the minimal standard of acceptable and prevailing practice of medicine in Iowa after four patients suffered urologic injuries during three hysterectomies and a trans-obturator sling

procedure and when she inappropriately prescribed Detrol LA to two patients with postoperative urinary retention in Washington between January 2007 and March 2008. The Board issued the physician a Citation and Warning and ordered her to pay a \$2,500 civil penalty. The Board also placed the physician on probation for a period of five years subject to Board monitoring, including a Board-approved practice monitor. On April 8, 2016, the Board determined that the physician has fully complied with the terms established by the Board and voted to terminate the terms of her probation and her Iowa medical license was returned to its full privileges, free and clear of all restrictions.

**Confidential Evaluation Order:** If the Board receives evidence that a physician may suffer from a physical, neurological or mental health condition, or substance abuse, or has engaged in unprofessional conduct, disruptive behavior or sexual misconduct, the Board may issue a confidential evaluation order requiring the physician to complete an evaluation at a Board-approved evaluation program. Additionally, if the Board receives evidence that a physician lacks the ability to practice medicine with reasonable skill and safety, the Board may issue a confidential evaluation order requiring the physician to complete a clinical competency evaluation at a Board-approved evaluation program.

The Board approved 3 Confidential Evaluation Orders due to the following concerns:

1. Concerns that a physician failed to provide appropriate surgical care to multiple patients in 2013 and 2014.
2. Concerns that a physician engaged in sexual harassment and/or unprofessional conduct.
3. Concerns that a physician engaged in unprofessional conduct and/or substance abuse.

**Board Appearance:** The Board may ask a licensee to appear before the Board to discuss concerns when the Board determines that a face-to-face meeting will assist the Board during the investigative process.

The Board held 3 appearances due to the following concerns:

1. Concerns about a physician's treatment of a patient with an ankle fracture and the physician's supervision of physician assistants in his practice.
2. Concerns about a physician's treatment of a patient with respiratory failure, including ventilation management, transfer of the patient and communication.
3. Concerns about a physician's pain management practices including: the use of combinations of opioids and benzodiazepines; comprehensive assessments; early refills; assessment of potential abuse/diversion; use of drug screens; and post-dated prescriptions.

**Iowa Physician Health Program (IPHP) Referral:** The Board reviews cases when the IPHP refers a participant to the Board due to concerns about noncompliance and/or a violation of the terms of an IPHP health contract. The Board may refer the participant back to the IPHP for further monitoring and assistance or initiate an investigation of the participant's noncompliance.

The Board reviewed 1 IPHP referral due to the following concerns:

1. Concerns that an IPHP participant practiced medicine for a short period of time without a worksite monitor and failed to document attendance at Alcoholic Anonymous meetings. The Board referred the participant back to the IPHP for further monitoring and assistance.

**Confidential Letters of Warning or Education:** When the Board determines that probable cause does not exist to take formal disciplinary action against a licensee the Board may send a confidential, non- disciplinary, letter to the licensee expressing concerns and requesting that the licensee take corrective action, including further education.

The Board voted to issue 11 confidential Letters of Warning or Education for the following areas of concern:

1. Concerns about a physician's treatment of a patient with respiratory failure, including ventilation management, transfer of the patient and communication.
2. Concerns about a physician's treatment of a patient with hyperglycemia, including testing, diagnosis and treatment.
3. Concerns about a physician's treatment of a patient with hyperglycemia, including testing, diagnosis and treatment.
4. Concerns about a physician's treatment of a patient with hyperglycemia, including testing, diagnosis and treatment.
5. Concerns about a physician's pain treatment of a patient with metastatic breast cancer.
6. Concerns about a physician's treatment of a patient who experienced a perforated colon during a colonoscopy, including delayed surgical intervention and use of improper antibiotics.
7. Concerns about a physician's evaluation, diagnosis and treatment of a patient who experienced a heart attack.
8. Concerns that a physician spit water in a patient's face due to concerns that the patient was going into circulatory shock during a wound procedure.
9. Concerns that an Iowa-licensed physician was disciplined by another licensing authority for failing to secure an appropriate airway for a single patient.
10. Concerns that an Iowa-licensed physician was disciplined by another licensing authority due to mental illness and substance abuse.
11. Concerns that an Iowa-licensed physician was disciplined by another licensing authority due to substance abuse.

**Monitoring Committee:** The Monitoring Committee monitors licensees who are subject to a Board disciplinary order and require monitoring.

The Monitoring Committee reviewed 14 physicians who are being monitored by the Board and held 2 physician appearances.

**Screening Committee:** The Screening Committee reviews complaints and mandatory reports that are lower priority to determine whether investigation is warranted.

The Screening Committee reviewed 29 cases.

**Licensure Committee:** The Licensure Committee reviews applications for licensure, renewal and reinstatement and licensure policies and issues. Most applications are approved by Board staff, but potentially problematic applications are reviewed by the committee, which determines whether a license should be issued, renewed or reinstated.

**Action:**

- The committee reviewed 15 medical licensure applications. Seven permanent licenses were issued, one resident license was issued, and three permanent licenses were reinstated. Four applications were left open to obtain further information or allow the applicant to withdraw.
- The committee recommended the Board approve a waiver of Iowa Administrative Code 653-9.7(1) “e” (1), which requires applicants to pass the U.S. Medical Licensure Examination’s 3-step sequence within a 10-year time limit or to be certified by the American Board of Medical Specialties. The Board accepted the committee’s recommendation to waive the requirement because the applicant passed the exam sequence in 10 years and two months. Further, the applicant has been practicing in Missouri on a full and unrestricted license.
- The committee approved letters of warnings to 5 applicants who failed to provide truthful, accurate or complete information on the applications.

**Discussion:**

- The committee instructed Board staff to draft changes in Iowa Administrative Code 653.9 to state that state licensure exams taken prior to 1974 are acceptable for licensure eligibility in Iowa.
- The committee reviewed several applications with questionable notarizations of the affidavit and authorization for release of information. Board staff has asked applicants to explain how the documents were notarized. The committee’s concern was presented to the Board, which will consider the issue further as responses are received from the identified applicants. Board staff was directed to clarify the instructions on the online application to reinforce that the applicant, and not a third party, is required to complete and submit the application, corresponding amendments and any explanations requested by staff. Third parties can assist applicants in submitting documents, but the applicant is solely responsible for the content of the application and could face disciplinary action if a third-party is allowed to complete the application. Physicians are also required to complete and submit their own renewal applications.

**In other action the Board:**

- Adopted **ARC2359C** to implement 2015 Iowa Acts, Senate File 276, which creates a license for the administrative, non-clinical practice of medicine. The rulemaking, which contains amendments to 653 IAC Chapters 9 and 11, will be published in the Iowa Administrative Bulletin May 11, 2016, and is scheduled to become effective June 15, 2016.
- Adopted **ARC2360C** to update the Board’s requirements and processes for medical licensure. The rulemaking, which contains 20 amendments, will be published in the Iowa Administrative Bulletin May 11, 2016, and is scheduled to become effective June 15, 2016.
- Initiated rulemaking to expand the list of resources physicians should consider when diagnosing, treating and managing patients with chronic pain. The amendment for 653 IAC 13.2(8) adds the new U.S. Centers for Disease Control and Prevention guideline for prescribing opioids for chronic pain.

- Denied a petition to initiate rulemaking relating to sexual orientation change practices by physicians. The Board did not deny the petition on its merits, but determined to establish a subcommittee to meet with experts and stakeholders to study and discuss the issue so the Board can make an informed decision on the need for a rule.
- Elected new officers, effective May 1, 2016: Diane Clark, Lake Mills, chairperson; Ronald Cheney, D.O., Carroll, vice chairperson; and Kyle Ulveling, M.D., Carroll, secretary.
- Recognized two members whose terms will end on April 30, 2016: Julie Carmody, M.D., Clive, and Allison Schoenfelder, M.D., Akron.
- Approved a meeting schedule for 2017: February 9-10, April 13-14, June 1-2, July 20-21, September 14-15, October 26-27, and December 14-15. The Board's scheduled teleconferences for 2017 are January 19, March 9, May 18, August 10, and November 9. Meeting agendas and minutes are available on the Board's website, [www.medicalboard.iowa.gov](http://www.medicalboard.iowa.gov)
- Issued its 2015 annual report on the agency's licensure and regulatory activities. The 20-page report can be downloaded at <http://www.medicalboard.iowa.gov/images/Stats/2015%20Annual%20Report.pdf>
- Received a report from the Iowa Physician Health Program, which monitors physicians with mental health issues, physical disabilities or substance use disorders. The program had 60 participants and 11 in the review process on March 31.
- Received reports from the Iowa Attorney General's Office on five disciplinary cases under judicial review and one civil petition filed against the Board.

**A press release describing public disciplinary action taken by the Board was distributed and posted on the Board's Website on April 14, 2016. If you have questions about this summary or the Board's press release, please contact Kent M. Nebel, J.D., Legal Director, at (515) 281-7088 or [kent.nebel@iowa.gov](mailto:kent.nebel@iowa.gov).**